

JUDGE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,	)	
	)	
<i>Plaintiff,</i>	)	No. C13-5169-BHS
	)	
vs.	)	<b>ANSWER OF CLAIMANT</b>
	)	<b>DELBERT WHEELER AND</b>
\$23,460.00 IN UNITED STATES	)	<b>JURY DEMAND</b>
CURRENCY, ET AL.,	)	
	)	
<i>Defendants.</i>	)	

COMES NOW Claimant DELBERT L. WHEELER, and for answer to Plaintiff's  
Verified Complaint for Forfeiture, alleges as follows:

1. Answering Paragraph 1, Claimant admits that this is an action to forfeit the  
described property for alleged violations of federal statutes.
2. Answering Paragraph 2, Claimant admits the same.
3. Answering Paragraph 3, Claimant admits the same.
4. Answering Paragraph 4, Claimant admits the same.
5. Answering Paragraphs 5A through 5D, Claimant admits the same.
6. Answering Paragraph 6, Claimant admits the same.

**ANSWER OF CLAIMANT DELBERT  
L. WHEELER AND JURY DEMAND;  
NO. C13-5169BHS - 1**

RICHARD J. TROBERMAN, P.S.  
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1           7. Answering Paragraph 7, Claimant admits the same.

2           8. Answering Paragraph 8, Claimant admits the same.

3           9. Answering Paragraphs 9A through 9F, Claimant admits the same.

4           10. Answering Paragraph 10, Claimant admits the same.

5           11. Answering Paragraph 11, Claimant is without knowledge or information  
6  
7 sufficient to form a belief as to the truth of the allegations set forth in said paragraph, and  
8 therefore denies the same.

9           12. Answering Paragraph 12, Claimant is without knowledge or information  
10  
11 sufficient to form a belief as to the truth of the allegations set forth in said paragraph, and  
12 therefore denies the same.

13           13. Answering Paragraph 13, Claimant admits that additional facts are set forth in  
14 the Affidavit of ATF Task Force Officer J. Mark Keller, and attachments referenced therein,  
15 attached to the Complaint as Exhibit 3. Claimant is unable to respond to the Affidavit  
16 because it fails to set forth a single set of circumstances in separately numbered paragraphs  
17 as required by Fed.R.Civ.P. 10(b). Claimant therefore denies each and every allegation set  
18 forth therein.  
19

20           14A. Answering Paragraph 14A, Claimant denies the same.

21           14B. Answering Paragraph 14B, Claimant denies the same.

22                           **AFFIRMATIVE DEFENSES:**

23           BY WAY OF AFFIRMATIVE DEFENSES, Claimant alleges as follows:

24           15. Plaintiff has failed to state a cause of action upon which relief may be granted.

25           16. Claimant's interest in the defendant properties is not subject to forfeiture because  
26  
27

1 the relief Plaintiff seeks against Claimant, a member of the Yakama Nation who lives and  
2 works on Yakama Nation trust lands, conflicts with the protections guaranteed to Claimant  
3 under federal law, including the Constitution of the United States and the 1855 Yakama  
4 Treaty as ratified by the United States on March 8, 1859, 12 Stat. 951.

5  
6 17. Claimant's interest in the defendant properties is not subject to forfeiture because  
7 any act or omission giving rise to forfeiture was committed or omitted without Claimant's  
8 knowledge or consent.

9  
10 18. The forfeiture of Claimant's interest in the defendant properties would violate  
11 the Eighth Amendment Excessive Fines Clause.

12 **JURY DEMAND**

13  
14 19. Claimant, pursuant to Rule 38 of the Federal Rules of Civil Procedure and Rule  
15 38 of the Local Rules for the United States District Court for the Western District of  
16 Washington, requests a jury trial.

17 WHEREFORE, Claimant prays for judgment as follows:

- 18 1. That Plaintiff's complaint be dismissed, with prejudice, and without costs;  
19  
20 2. For Claimant's reasonable attorneys fees and costs incurred herein;  
21  
22 3. For such other and further relief as the court deems just and proper.

23 DATED this 24 day of April, 2013.

24 RICHARD J. TROBERMAN, P.S.

25 By: 

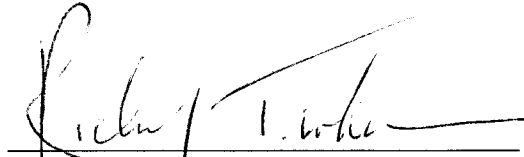
26 RICHARD J. TROBERMAN

WSB #6379

27 Attorney for Claimant Delbert L. Wheeler

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2013, I electronically filed the foregoing "ANSWER OF CLAIMANT DELBERT L. WHEELER AND JURY DEMAND" with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorneys of record in this case.

  
\_\_\_\_\_  
RICHARD J. TROBERMAN